

**CONSUMER PROTECTION & GOVERNMENT OPERATIONS COMMITTEE
of the
Suffolk County Legislature**

Minutes

A regular meeting of the Consumer Protection & Government Operations Committee was held in the Rose Y. Caracappa Auditorium, William Rogers Legislative Building, Veterans Memorial Highway, Smithtown, New York on **June 19, 2001** at 10:00 a.m.

MEMBERS PRESENT:

Legislator Cameron Alden, Chairman
Legislator Michael D'Andre
Legislator Andrew Crecca
Legislator William Lindsay

EXCUSED ABSENCE:

Legislator Fred Towle, Vice Chair.

ALSO IN ATTENDANCE:

Paul Sabatino, Legislative Counsel
Warren Green, Aide to Legislator Cameron Alden
Dennis O'Doherty, Attorney
Marc Bern, Attorney, Napoli Kaiser Bern & Associates
Walter Hang, Toxic's Targeting
Kenneth Robinson, Attorney, Corleto & Associates
Mitchell Brect, Attorney, Weitz & Luxenberg
Michael White, White & Kretzing
Charles Gardner, Director, Suffolk County Consumer Affairs
Brook McMullen
Meghan O'Reilly, Liaison to the Presiding Officer Paul Tonna
Terry Pearsall, Aide to Legislator William Lindsay
All Interested Parties

Minutes taken and transcribed by Irene Kulesa, Legislative Secretary
(The meeting came to order at 10:00 a.m.)

CHAIRMAN ALDEN:

Good morning. We're going to start the Consumer Protection Committee Meeting with the Pledge and we'll have Legislator D'Andre lead us.

SALUTATION

CHAIRMAN ALDEN:

Okay, I think what we'll do first is Charlie, come on up and just give us a couple updates on the price of oil and the price of gasoline and all that kind of stuff?

MR. GARDNER:

Yes. Well, if we talk about the price of gas has a -- I wouldn't say stabilized but at least it has stopped going up and from our last survey, when it was a dollar eighty eight, it's about a dollar eighty six now. So we'll see what that portends for the summer driving months.

CHAIRMAN ALDEN:

How about supplies?

MR. GARDNER:

We haven't hear anything unusual. Nothing unusual. Oil, you still have about a sixty-five cents spread from high or a low. But this is the, you know we're headed for the quiet season

for the number two heating oil. So that there won't be very much change, unless there is something catastrophic happens somewhere in the supply. And as far as octane, there were four stations that have been shut down, have since been reopened, based on finally passing. But four stations were shut down for selling misrepresented gasoline. You know a lower octane. For gasoline, I don't have the exact number but it's certainly more than 95 percent of all the violations that are issued by our office against gasoline stations -- are issued to other than major brands. We very rarely have violations of any kind from major brands.

The two updates. That one contractor that we discussed in committee several times, Active Appliance? The one who had taken us to the Supreme Court? There was an update. They're suing us now. They're back in Federal Court. We have to appear tentatively scheduled for July 2nd. They're suing the County Executive, the County Attorney's Office, myself, a few other people for sixty million dollars. They're were just highlighted this week, this past Thursday night on Prime Time ABC, did an hour show. Most of it related to Active Appliance or Checkmate or Reliance. The same company that we have been after for about ten years. So they are still not giving up and are still fighting, not only the licensing laws but all the licensing procedures of the County. So we'll see what happens. They tried to get the TRO overturned. That has been upheld, so they are still enjoined from advertising or repairing home appliances. So we'll see what happens July 2nd.

And the last thing is, in the last two weeks, we did fifty-five item-pricing inspections under Suffolk County Code and there were forty-nine failures. So that's something. We're going to have to get back to putting some emphasis on. These were all of these supermarket chains, as well as Wal-Mart and K-Mart, Genovese, CVS, etc.,

CHAIRMAN ALDEN:

I had a couple complaints about some of the smaller ones in my district too. So we're going to do the sting operation or not the sting. That's just a compliance check. Did we do that in some of the smaller supermarkets too?

MR. GARDNER:

Well, all supermarkets. I mean, it doesn't matter what the size is.

CHAIRMAN ALDEN:

Okay.

MR. GARDNER:

Remember in the County, the item pricing regulation that was passed by the Legislature addresses four different commodities, types of commodities. Not the type store that it's sold in. That's why item pricing in Suffolk County is across the board based on the commodities that are being sold, not the store. People mistakenly sometimes think that the item pricing applies only to supermarkets, it does not. Food and food products, paper goods, cleansers and detergents and health and beauty aids. Whoever sells those. That's where item pricing applies.

CHAIRMAN ALDEN:

I'll give you the list of a couple that I had complaints on. Any other questions? No? Okay, Charlie, thank you very much for coming in. All right, we have a card from Brooke McMullen. And while Brooke is coming up, we have Legislators Lindsay, Alden, D'Andre and Crecca present and Fred Towle has an excused absence. Hi.

MS. MCMULLEN:

I'm here in reference actually to a problem, I think, had been --

CHAIRMAN ALDEN:

Grab the microphone. Pull it close to yourself.

MS. MCMULLEN:

All right. I'm not used to this.

CHAIRMAN ALDEN:

Good, okay.

MS. MCMULLEN:

I'm actually here in reference, because I've been having a problem with a Credit Company Associates Bankcard and they're claiming I opened an account with them in November of '99, which I don't ever recall opening and they're saying I activated the card then. I've never seen the card nor -- I never even heard of it. And what wound up happening is when I started receiving bills and actually I had written a letter to the company on behalf of this. When I started receiving bills, I see they received some kind of billing statement from the company. I called and only received a message saying that they were closed and to call between the hours of 8:30 a.m. and 4:00 P.M. during the weekdays to speak to a representative. They had no kind of help for me during any other hours other than 8:30 to 4:00. At the time, I was a full time student, as well as working thirty hours a week. So it was almost -- it was nearly impossible for me to get in touch with them that way. After several attempts of getting in touch with them from that way, I got a letter from an LTD Financial Services telling me that they had now gone through them to get their money from me.

When looking at all the charges on the card, there was not one charge from a purchase I made on the card. All of it was Credit Card Company add on's that they had put on to the account. I never -- like I said, I've never made a purchase but they put all these different things on to the card and that's why I was fighting it. If I had made a purchase on the card, then they could prove to me, I activated it. To this point, they've never proven to me that I activated it through them. They told me they were sending me the application, which doesn't mean I activated it. It just means that I did it. You know that I had filled something out, which is common on college campuses, which is a real problem. Because you feel guilty because these poor guys are marketing majors or something like that. They come up to you with some story that they're getting college credit for this and you fill it out feeling bad.

So they're saying that they have that proof but they've never shown me any proof that I voiced activated it, called in and started the account. So when I got wind through LTD, when they had contacted me, I explained to them my situation and they said I could appeal it through them. So I faxed them a letter on March 13th, appealing the account. So I was told I would hear within a month from them. When I started trying to contact them in April and May, I was getting no response from LTD. I then, a week ago, received a letter from a company called Encore. Now what seems to have happened is this is another collection agency. What they've seemed to have done is my guess to -- it null and voided my appeal basically, by pulling it out of LTD and putting it into Encore. So Encore had no clue I had a problem with the account. They called me on this past Friday and at that point, I was already in touch with my Legislator and getting help from Ray Graffo who wrote to me and Terry over here. And when I got the phone call -- I got a phone call from them on Friday and it was Encore telling me basically, that they were -- I had twenty four hours, forty eight hours to take care of this. This is on a Friday afternoon at 4 P.M. I had forty eight hours to take care of this with them, otherwise they were going to charge it off, which means they were ruining my credit for seven to ten years and that if I didn't pay it like that, that would happen and they basically, told me my life would be ruined, which is what that company said to me. They said, you know, you can talk until you're blue in the face to us, we don't care. This is our client and you owe them money.

So when I called Associates about claiming never having the card, they have a new phone system set up now. So I finally get a representative. When I speak to the representative, I said to them, I never remember opening the card explaining the situation again, he says oh, it must be identity, stolen identity fraud. Go to the security office. They transferred me to the security office. They wanted me to file a police report saying I had had my identity stolen, which is not what I think. I don't know what happened and they've proven to me that anyone activated the card. So how can I go to the police station and ask for a police report on fraud, if I have absolutely no proof of it. And then, they said they put a freeze on the account, so it won't get charged off. And by putting a fraud case on it and then they're

telling me that I had to get the police report and they'll investigate it. But that until -- they would get in touch with me. But that has been frozen but at the same time, I have no guarantee that it still didn't go on to my credit. They're just telling me it didn't. And like I said, they've been running me back and forth with this. And I came to find out that this is a huge problem where they've been doing this to other students.

They also informed when I was on the phone with them telling them about my situation that this wasn't my card, in putting the fraud case number on it -- that they had told me I had another account opened with them. That card I had received and it still has a sticker on it saying that the number, which proves I never, called. It wasn't signed. It wasn't called in. They had opened the account. I don't know how. If it's -- I don't know how it could happen. If it's a computer error or if just them being shady and trying to get something done. I'm giving them the benefit of the doubt but it's a real problem.

LEGISLATOR D'ANDRE:

Are you a student?

MS. MCMULLEN:

Yes. I just actually graduated in May with my BA

LEGISLATOR D'ANDRE:

Let me say, if you graduated?

MS. MCMULLEN:

Yes.

LEGISLATOR D'ANDRE:

Let me say what I'd like you to do. I'd like you to talk to the District Attorney. Let me tell you something. You know it's time we found out how good or bad they really are. Here you are a student. All you can do to study and graduate and look to pay for this and someone is making a mockery out of your innocence. I would call Chris Williams at the District Attorney's Office. Do we have the District Attorney's number?

CHAIRMAN ALDEN:

We'll get somebody to write it down for you.

MS. MCMULLEN:

All right.

LEGISLATOR D'ANDRE:

Because you know, I hate to see these creditors doing this to a youngster. Trying to behave well and be a good citizen and all that kind of -- I hope you vote.

MS. MCMULLEN:

Yes. Of course.

LEGISLATOR D'ANDRE:

Because my effort here is for somebody that's either going to vote or has voted. That's a real American Citizen.

MS. MCMULLEN:

The other problem is that --

LEGISLATOR D'ANDRE:

You call Jim Catterson up and talk to Chris William and you say Legislator D'Andre and your Legislator urged you to call and you need desperate help. And let us know what happens.

MS. MCMULLEN:

The other thing, I just wanted to say was that there should really be something done about them being allowed on a college campus. I mean, I know that --

LEGISLATOR D'ANDRE:

Well, tell Chris William all of your gripes.

MS. MCMULLEN:

Um-um.

LEGISLATOR D'ANDRE:

What's wrong with the system and what he wants to recommend for us to do, to remedy it?

MS. MCMULLEN:

All right.

LEGISLATOR D'ANDRE:

But you need that kind of activity that will open the doors that are shut to you.

MS. MCMULLEN:

All right. Thank you.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEGISLATOR LINDSAY:

Brooke, we talked to Charlie Gardner who is the Head of Consumer Affairs who is sitting behind you and Charlie assures us, you have to fill out some paperwork. Consumer Affairs will take it on as a case and they're pretty sure they can get this particular situation rectified. What troubles me though is you don't remember ever filling out a form, do you?

MS. MCMULLEN:

Do you understand that how many times people come up to you on campus with these --

LEGISLATOR LINDSAY:

Is it possible that you never filled out the form?

MS. MCMULLEN:

I don't know. They're saying they're sending me the application. I haven't received it yet and then from there, I'll decide if I can see if that's my signature and my handwriting. But then again, like I said, you fill out so many of them just feeling guilty for the kids, you're stuck doing this.

LEGISLATOR LINDSAY:

But when did you start asking for the backup paperwork on this?

MS. MCMULLEN:

Well I only -- they're saying I opened the account in '99, of November of '99. I only started receiving billing statements as of like ten months ago.

LEGISLATOR LINDSAY:

Okay, when did you challenge it?

MS. MCMULLEN:

Well, the first -- once when I starting calling -- but I challenged it in March.

LEGISLATOR LINDSAY:

Okay. And they haven't produced any paperwork since March?

MS. MCMULLEN:

No, they won't -- I was on the phone with them and they wouldn't even tell me -- they told

me they didn't have files. Their files, their computer screens that they were looking at only went back six months. So they couldn't verify and the couldn't -- I said just show me the voice activation, something.

LEGISLATOR LINDSAY:

See because what's troubling to me is that if either the school or somebody is selling names of students to these creditor-lending companies. I mean that's -- your particular problem, we can take care of but if it's more widespread, I think, --

MS. MCMULLEN:

Like I was saying, something needs to be done about them being able to go on a college campus and these offers that they give. Because there's more than -- I guarantee there's many more students that have had the same problem I have and just didn't know where to go to take care of it and the fact of the matter they're soliciting. They shouldn't be allowed on the campus, period. They should be -- whether it's just individual colleges, if it should be Suffolk, in Nassau, Countywide that they should not be allowed to do this to students on campuses. Because if you're stuck, you know you come out of the classroom building and they're right there and they follow you all the way, you know, down to your car practically. They'll follow you across campus trying to get this. Because of them are doing internships where this is their credit. So I mean, it's kind of a situation if they weren't there, they'd make it a lot easier for a lot of students to say no to them, if they weren't following you down the campus.

LEGISLATOR LINDSAY:

Thank you very much for coming in Brooke and sharing this problem with us. And as I say, Charlie will give you a hand. We'll have the form filled out, send it over to his office and he'll work with you on it.

MS. MCMULLEN:

Thank you.

LEGISLATOR LINDSAY:

Thank you.

CHAIRMAN ALDEN:

Thank you. Warren, do you have a list of -- and the order for the law firms to do the presentation? We'll start with Weitz and Luxenberg. If the representative would come up? Good morning. And the way we're going to do it is, we'll have each law firm do a presentation and then we've got some specific questions, as far as basically, it wouldn't be appropriate to doing in a public session. So we're going to go into Executive Session and we'll go back and forth with a few questions about specifics on the litigation. So there's going to be a public portion and then we'll also go into a private Executive Session. Okay, so Mitchell, we're going to start. If you just, for the record, state the name of your law firm?

MR. BRECT:

Again, my name is Mitchell Brect. My law firm is Weitz and Luxenberg in New York. We have also offices in New Jersey. We are currently lead counsel in a case pending in the southern district of New York, which is a multi-district case on behalf of private well owners in eighteen states in the United States that has been brought before Judge Shinlin in the southern district. Among our co-counsel in this particular action against the petroleum industry and it's an MTBE case, obviously. Our attorney's who have represented over a four-year period the City of Santa Monica, in their case against the oil industry involving MTBE contamination. Lake Tahoe, private well owners in Maine, private well owners in North Carolina, as well as lead counsel in all of the underground storage tank litigation in the entire country.

We have done, I would expect, more than a million documents have been reviewed in the course of our discovery. A status of our case in the southern district of New York is a pre-class certification. We have been through industry documents involving all of the petroleum industry defendants in this particular case and obviously have shared the wealth of

knowledge and information that have come from our co-counsel around the country in existing MTBE litigation.

I can tell you a little of our firm. I've submitted a firm resume and quite frankly, I was not aware coming here today that you would want more of a presentation formally. But I'm prepared to tell you some of what our firm does. We have been involved in asbestos litigation for over ten years on behalf of individual plaintiffs. We represent individual plaintiffs in drug industry litigation involving both {propolsid} Phen-fen and other drug industry litigation. Obviously, we're involved in MTBE litigation against the oil industry. I personally was involved with the firm for more than a year and a half in litigation against the tobacco industry on behalf of Union Health and Welfare Funds. That litigation is continuing. We also represent individual plaintiffs and tobacco related litigation.

We have close to fifty attorneys and a staff of more than two hundred. We do work nationally, litigate nationally, as well as out here on Long Island, in the City of New York and in Federal District Courts around the country. I will tell you that, I believe, our experience in MTBE litigation thus far, this is a case now that is a pending case is approximately a year and a half old and it's moving forward quite rapidly before Judge Shinlin.

We expect and I fully anticipate that we are going to see many more cases end up in this multi-district litigation. Why is that significant? I believe that, in fact, this particular case will drive the litigation nationally involving MTBE. Judge Shinlin has expressed an interest in what's going on around the country. Clearly, we feel that this case is what is going to be driving any settlement possibilities, any further litigation in this area and we're intent on seeing that it moves forward rapidly. Now that is not to say that our firm is not fully capable and willing to bring a State Court action where that's necessary. We've handled many such actions in the past. We've represented many individual plaintiffs in the past and so that issue, I have heard it said that we're just a class action law firm. That couldn't be farther from the truth. And if you, in your wisdom, deem it inappropriate to bring such a case in the Federal District Court where within the MDL, we would be perfectly happy to move forward in State Court.

I will tell you though that the learning curve in MTBE litigation is steep and much of our work has been done. We have retained five experts nationally in our case. We've already been deposed. We have deposed all of the defendant's experts in this case. We know the liability in -- we've seen all the documents and we feel that we are at a place right now where we passed that steep portion of the learning curve after four years of litigating and know the area and know the case and know the documents. So with that, I will defer to you all for questions.

I will tell you that, if I didn't say so, there are other -- our other co-counsel in the southern district case, are Lewis and Associates. Lewis was in the forefront of bringing MTBE litigation. He had the first case in Maine. He had also retained consultants out here on Long Island, one of whom is here and spoken to several of the water districts in Long Island, has done extensive research in this area already. That was a couple of years ago. One of our other co-counsels Scott Summy is the attorney representing the City of Santa Monica, so he knows city water cases involving MTBE. Our case management order in the southern district is in place. As I say, we're moving forward and we're -- I would expect going to be scheduling a trial sometime soon. We're before the judge this week on motions to dismiss. We feel confident about those.

CHAIRMAN ALDEN:

I had just had a couple of -- these are more pro-forma than probing questions but do you have any pending litigation involving the County at the present time?

MR. BRECT:

Involving the Suffolk County?

CHAIRMAN ALDEN:

Suffolk County.

MR. BRECT:

Not to my knowledge.

CHAIRMAN ALDEN:

Okay.

MR. BRECT:

I could certainly take a look but I don't think so.

CHAIRMAN ALDEN:

Okay. Because we have to establish whether there's a conflict of interest or anything like that. Then again, if you'd looked to -- if your firm or any family member or partner in the firm is under contract with Suffolk County, we would need to disclose that. Also, if you had any -- you or any partner or principal, if you have any personal relationships with any officer, official or employee of the County of Suffolk, which would create a potential conflict of interest, actual or perceived? And the other question is would your law firm do this on a contingency fee basis?

MR. BRECT:

Certainly.

CHAIRMAN ALDEN:

Okay. The rest of this is the things that I have would be -- you know appropriate in Executive Session. So Andrew, do you have anything?

LEGISLATOR CRECCA:

No.

CHAIRMAN ALDEN:

Mike? Okay. So if you could wait a couple minutes, what we'll do is we'll put on the record, you know that the public portion of it for all four law firms and then individually, we'll go into Executive Session and we'll take you back and ask the specifics on it.

MR. BRECT:

If I can remain?

CHAIRMAN ALDEN:

Yes, if you would please? Thank you.

MR. BRECT:

Thank you. By the way, I did bring a set of documents involving this other district case, if you would like?

CHAIRMAN ALDEN:

Oh, good.

MR. BRECT:

I didn't bring more than one set.

CHAIRMAN ALDEN:

No, that's fine.

MR. BRECT:

Okay. Thank you.

CHAIRMAN ALDEN:

Thanks. Okay, we have Kenneth Robinson.

MR. ROBINSON:

Good morning. My name is Kenneth Robinson. I'm of Counsel to the law firm of Corleto & Associates. We have offices in Melville. That's where I'm headquartered, White Plains and Danbury. We're a firm, about five attorneys; a couple of paralegals and our emphasis has been primarily environmental law. I've been practicing environmental law for about twenty, twenty-one years. I grew up in Suffolk County. My parents are still here.

Personally, I've been very much involved in environmental issues in the County. We served on the Long Island Regional Planning Board Special Groundwater Protection Advisory Committee when all the groundwater areas were designated. And I presently chaired the Nassau County Water Resources Board, which is an agency of the County of Nassau, basically, geared to setting water policy in Nassau County and trying to advise the County Executive and the County Legislature.

I submitted copies of the May 18th, letter that we submitted to Legislator Alden, which has my resume and some articles and information about cases we've been involved in. The -- we have been involved in a fair amount of litigation regarding leaking underground storage tanks, damage to private drinking water wells, damage to property, on both sides of the issue. Unlike probably most of the other attorneys, I will tell you, I have been involved in representing the low end of the petroleum industry, some retailers and most of what I've done with them is sue the large distributors and the major oil companies on the grounds that they were the cause of the environmental contamination at issue. We've also represented them, in terms, of litigation with insurance companies and have been pretty successful in having the insurance companies pay for the remediation and pay for the property damage. And the approach that we would take, if we were selected to represent the County was, basically, put together a lot of the resources that the County already has. They have a lot of resources with the Suffolk County Department of Health, Suffolk County Consumer Affairs. You have resources Suffolk County Community College, Stony Brook, the Groundwater Resource Institute and basically, put together a team approach to use the resources that are out there.

We have a pretty good idea of where the MTBE problem is on Long Island. What drinking water wells have been affected, both from the local water suppliers, as well as the Suffolk County Water Authority and we have a pretty good idea of what the costs are going to be to clean that problem up and how long it's going to take. Because of a lot of litigation that's gone on and a lot of litigation we've been involved in, you can pretty much trace when MTBE was first introduced into the petroleum industry, which is about 1979. There are a number of articles on gasoline additives that the industry itself has put together. So you can trace where MTBE came into existence. When it started to be used and you know, our goal would be to trace it back to the large players out there, in terms, of who introduced it to the environment, who distributed it to.

The major oil companies basically, had all sorts of different controls in place to keep track of the levels of reformulated gasoline, which has been oxygenated gasoline, which contained the MTBE. And to identify who the potentially responsible parties are and to identify ways of a, seeking reimbursement for all the money that's being spent to clean up. The contamination that was caused and b, obtaining commitments from parties to either take over the cleanup or to have their insurance companies take over the cleanup. That has been a pretty successful course of action, we have conducted over the last ten, fifteen years and it can very well work, in terms, of Suffolk County. You have an Oil Spill Fund, which is funded by a tax on the petroleum industry, which the County can make a direct claim on, as an injured party. And which either the Spill Fund then would come and clean up the problems or would act as a mediator of who we would designate as the potentially responsible parties.

You have the Department of Environmental Conservation out there, which has many, many files of all the spills of gasoline, where the problems are and who the potentially responsible parties they've identified. So a lot of the resources are there and we would seek to take them, identify who the parties are and look at the different causes of action that we have and look at the different avenues of relief because we have the Spill Fund. We have the State Court. There's federal litigation. You have the navigation law in the State of New York and it's a funny place to find a -- you know a statute that is geared to -- for the cleanup of groundwater but it is a very, very powerful tool.

We were involved in the case and achieved the decision in the case called State versus Tartan. It was a third party action. We brought in Chevron, where that any injured party who has been injured by a release of petroleum products can recover their attorney's fees, their expert witness fees. So whatever attorney's fees or expenses, the County may have, the water districts may have are ultimately recoverable in such an action. The navigation law also allows you to go directly against insurance companies. So if you find people who cause the problem and even if, whether it's you know Gulf Oil, or a small gasoline station and they're no longer in business, so they don't have the assets to come forward and pay for the damages they've done or to be responsible for the cleanup, you can go directly after the insurance companies and the insurance companies are almost always there.

We're involved in a case from a policy that was issued in 1962. It was taken over by the State of New York and there's enough money right there to pay 75 cents on the dollar on the claim for property damage and as well as, for the defense of lawsuits. So there are a lot of resources out there. There are a lot of targets there that are available to the County. The resources are there and as I said, the approach would be, you know one way to do it is you could amass, you know a huge team of experts and spend a fortune and eat up a lot of it on attorney's fees. When I spent four years with the New York State Attorney General's Office doing consumer litigation, doing environmental litigation, doing energy litigation, one of the things we did is we used the resources the State had. We used the State University system. We used other State Agencies. We used County Agencies to put together a team and you know with our litigation with basically the public utility companies, Con Edison. We were able to obtain a forty million-dollar judgment from Consolidated Edison when then had the leak at the Indian Point Power Plant and basically, working with the resources that we had and it's because we were there.

You know I've grown up on Long Island. I know Long Island. I'm very familiar with the problems. I'm a member of the Long Island Water Conference in my capacity as the Nassau County Water Resources Board. So I've worked with a lot of the water suppliers. I've worked with a lot of companies, in terms, of examining, of trying to identify the problems. One of the things I've done, as an attorney is not just litigated cases but I've worked with the engineering consultants to -- okay, how do we go about identifying problems? Where are you going to put the monitoring wells? When you get all these reports, you know I can examine them. I understand what they say. What they mean. What the next step should be; what type of remediation efforts are going to be needed. What type of expenses are there? Who is out there? Who can, you know do that type of work? So we're very familiar with the type of litigation that's required and I can promise you that if our firm is selected, this case is not one of those that's going to get lost in the shuffle. This will be a very important case for us. It would be a major piece of litigation that our firm would undertake and we will take it very seriously and have every confidence that we would achieve the results what the County Legislature would set for us. I'd be happy to answer any questions.

CHAIRMAN ALDEN:

You want me to put these in order? You want to ask some questions?

LEGISLATOR CRECCA:

Yes, I'd like to ask a question now.

CHAIRMAN ALDEN:

Go ahead.

LEGISLATOR CRECCA:

How many attorneys do you have in the Melville Office?

MR. ROBINSON:

There's just me in the Melville Office and there are four other attorneys in Danbury.

LEGISLATOR CRECCA:

And I mean, I guess, one question I would have is, do you have the resources to really handle a case of this magnitude?

MR. ROBINSON:

We spend -- the firm spends all of our time basically, litigating case against major oil companies and major insurance companies. We usually -- our adversaries are usually the major law firms in New York City and you know, if necessary, we can always hire another attorney. I have a paralegal who's worked for me for twenty years doing environmental cases, petroleum cases and one of the things we were able to do is very quickly, very cost effectively and very aggressively. So yes, we don't have the resources of the New York City Law Firm that, you know may have twenty attorneys but by the same token, you know basically, we know where the bodies are buried. We know where to look. We know what the problems are on Long Island. We know the geology. We know the hydrogeology. You know the players. We could jump in tomorrow.

LEGISLATOR CRECCA:

You talked about using existing resources, I guess, for experts and things? But if it's necessary to go out and hire experts outside that we don't have available to us, does your firm have the ability to do that to lay out those kind of disbursements?

MR. ROBINSON:

We have used experts. There's companies we've used that have the expertise, both on Long Island, outside of Long Island both, in terms, of laboratories to analyze data and other experts, in terms, of examining documents. There are basically, you know forensic environmental consultants out there who, instead of a murder scene, it's a spill and you're trying to figure out who did it. When did it happen and what's it going to take to clean up, so -

LEGISLATOR CRECCA:

No, but I meant do you have the resources to put out those kinds of disbursements if necessary for this type of litigation?

MR. ROBINSON:

No.

LEGISLATOR CRECCA:

Okay.

MR. ROBINSON:

I will be honest. Our firm is not -- we do not have the capability to be able to do this on a contingency fee basis the way the other firms do. But by the same token, you know we've worked with -- we've done a lot of work with community groups. We represented Suffolk County a number of years ago when the Shoreham phase in and we always work on some sort of modified fee basis.

LEGISLATOR CRECCA:

Okay, thanks.

CHAIRMAN ALDEN:

We have to put on the record also; do you have any pending litigation involving the County?

MR. ROBINSON:

No.

CHAIRMAN ALDEN:

Okay. Is your firm or any family member, or you, or a partner in the firm under contract for Suffolk County?

MR. ROBINSON:

I am not. I would check with the other members of the firm but I don't believe so.

CHAIRMAN ALDEN:

Okay. Also, you or any member of your firm have any personal relationships with any officer, official or employee of the County of Suffolk, which would create a potential conflict of interest?

MR. ROBINSON:

No.

CHAIRMAN ALDEN:

Okay and then you already answered that you couldn't do it on a contingency fee basis. What are your normal rates then if a --

MR. ROBINSON:

We normally charge two hundred and fifty dollars an hour. What we've done with community groups and we represented the Village of Sea Cliff, the Town of Ellenville. We usually work on some sort of modification of that and what we usually do is we have a dual billing rate. One billing rate for litigation. So we have to prepare court papers to go to court, it's slightly higher and then lower billing rate if there are meetings if like there was a meeting with the County Legislature, if there was a meeting with the, you know the Suffolk County Department of Health to try to gather information.

CHAIRMAN ALDEN:

How about if every day you get thirteen calls from eighteen Legislators? I'm only being -- that's just facetious. Would you -- can you stay around for a little bit more?

MR. ROBINSON:

Yes.

CHAIRMAN ALDEN:

Okay, good. Because we finished up with the public portion and then individually, we'll take the four law firms in the back and just in Executive Session. Thanks.

MR. ROBINSON:

Thank you.

CHAIRMAN ALDEN:

Thank you. And we have a -- good morning.

MR. BERN:

Good morning. Let me tell you first of all, I'm only one person but I did bring a couple of other individuals with me.

CHAIRMAN ALDEN:

Let them introduce themselves.

MR. BERN:

Sure.

MR. O'DOHERTY:

Mr. Chairman, members of the committee, my name is Dennis O'Doherty. My law office is at 25 Candy Avenue, Sayville, New York and I am co-counsel with Napoli, Kaiser and Bern.

MR. HANG:

Good morning. My name is Walter Hang and I'm the President of Toxic's Targeting and we're an environmental data base provider.

MR. BERN:

Good morning and again, my name is Marc Bern. I am a Senior Partner in the Law Firm of Napoli, Kaiser, Bern & Associates. We have offices in Mineola, in New York City and also with Mr. O'Doherty in Sayville. We are a firm of fifteen to twenty lawyers depending on which and what litigations we are involved in at any current time. We would, first of all, let me just say on behalf of myself, my partners, my associates who are here that it is a privilege to address you and a privilege to have this opportunity to speak to you about the possibility of representing Suffolk County. I personally reside in Suffolk County. I have a house that has two underground water wells that we keep monitored at all times and we are currently representing other water districts in New York, in Nassau County. We represent many individuals in the Hyde Park area in upstate New York in regard to MTBE litigation. We will be filing an individual lawsuit on behalf of one of the water districts on the 28th of June, which will probably be the first individual lawsuit brought on behalf of a water district in the State of New York.

I should also mention, by the way, that besides Mr. O'Doherty's firm, we are also working with, in this litigation, nationally with several law firms, major law firms in Texas. They were the lead Counsel in the tobacco litigation, recovered seventeen billion dollars for the State of Texas. My own firm was the largest in the country handling the diet drug litigation, which we just concluded. We represented six thousand individuals throughout the United States in all fifty States. We recovered over one billion dollars in excess of that for those individuals. We were co-liaison Counsel for the State of New York with respect to the Phen-fen litigation. We are co-liaison Counsel in the ongoing resin drug litigation as well. We represent only victims. We have never represented a pharmaceutical company. We have never represented a gasoline company. We have never represented an underground storage company and we never would.

We are looking to represent Suffolk County and in that regard we have, in fact, already met with the water district here in Suffolk County. We believe that we will be representing hundreds of individual well owners in Suffolk County, as well as in Nassau County in this litigation. It is our plan. It is our thought that this would be litigation again, only for individuals. We do not get involved in class action litigation in this type of thing. If we represented Suffolk County, Suffolk County would be an individual plaintiff against the polluters, against the defendants, in this case, just as every one of our other well owners, as well as our other water districts are represented on an individual basis.

I would like to say that as a Senior Partner in the law firm, I've been in practice for twenty-six years. I have also only represented victims. This would be my primary litigation that I will be working on, the MTBE litigation, together with litigation on behalf of those who have suffered, as a result of contamination from PCB's in the upper Hudson Valley. We are very much involved in that. Not only there but in Georgia and other places in the United States. Involved with us beyond the Texas Law Firms, I would and Mr. O'Doherty, additionally Robert Kennedy Jr., is one our partners in this litigation as well. His firm is Kennedy and Madonna and I should say that Mr. Kennedy wanted to be here today to address you as well. Unfortunately, he is filming a public interest television commercial for clean water for Nickelodeon today and so he could not be here. If we are fortunate enough to address you again, I am hopeful that he will be here as well. That gives you a little background on our firm.

We would be representing you also on a contingency fee basis and I'd like to say that our resources are considerable with respect to litigation like this. Not only would we be representing you on a contingency fee basis but we would also be forwarding or fronting all of the costs for which we have very major resources. Our litigation against the drug company with Phen-fen, we put out of our pocket in excess of ten million dollars. So we are prepared, not only to do this on a contingency fee basis but also to adequately and ably finance a litigation on behalf of the County. In that regard, I have asked one of our very, very, very important experts, Mr. Hang, who has already done some work on behalf of the County, at my request, to address you as well and to give you a little better understanding possibly about the scope of the problem that we are facing here in Suffolk County.

MR. HANG:

Greetings. I'd like to tell you a little bit about Toxics Targeting and what I do. Toxics Targeting is a data base firm. We essentially have created a computerized map of New York State. I have been compiling information on Long Island groundwater contamination since the late 1970's. So currently, my map for Long Island covers about a hundred thousand sites and for New York State as a whole, I track and can profile and provide very detailed information on almost four hundred thousand sites, including landfills, leaking tanks, spills, storage tanks, hazardous waste generators and environmental discharges of all kinds. Typically, my information starts off from the government but because I work very, very extensively with many of Long Island's and New York's most respected engineering and environmental consulting firms, the value that my company provides is that we compile in depth information and we can attribute that information to very specific and accurate spatial locations.

Of the four hundred thousand sites that we track, roughly two thirds of them start out with incomplete addresses. Frankly, many of the people that report spills and dumps don't want to get inspected. They don't want to get fined. They don't want to get into regulatory non-compliance problems. As a result, they provide very obscure addresses and locations. And with people in the field, from many of Long Island's major firms, Toxics Targeting, in the last twelve years has been able to find where many of those spills and dumps are located. We do a lot of work out here on Long Island, particularly for drinking water, both for private wells that have been contaminated and for many of the biggest water districts, including Plainview, Hicksville, Carle Place, West Hempstead. We also check many of the major wells that have been drilled in Suffolk County. We provide data services, for example, to H2M, Dvirka & Bartilucci, Sydney Bound, CDM and literally hundreds of other firms who are in the field virtually every day. We also provide data services to the New York State Office of the Attorney General, Department of Transportation and we also help the City of New York protect its reservoirs.

The problem with MTBE, which my firm has been tracking for more than two years, I'm sure you know is that this compound is very persistent. It's toxic. It's potentially cancer causing. It's soluble and perhaps, most importantly, it's present up to 14 percent in gasoline. So Long Island's big problem is that there are so many people here driving cars that a huge amount of this compound has been released into the sandy soil through leaking tanks and spills. I believe that in the entire country, there is no other area that has the same rate of MTBE spill problems per acre anywhere in the country. And when you factor in that all of Long Island is dependent on a single underground source of water, you begin to understand why you're considering taking very extreme action. MTBE, as you know is soluble and so once it's in the ground, it can migrate far faster than the other compounds in gasoline. That includes the gasoline itself and the benzene {tieuing} and xylene that are present in gasoline.

In Suffolk County, for example, my firm is tracking MTBE spills that have migrated more than a mile and have hit private wells only forty feet deep. That's very unusual. My firm is tracking spills that have migrated all tolled, almost eight thousand feet. So again, the potential for this contamination to migrate and impact wells and homes and structures is very, very high. Right now, we're talking about in New York State alone, more than thirty thousand major gasoline spills. according to the data provided by the Department of Environmental Conservation, all tolled, we're talking about more than three thousand tanks that have failed and currently, don't meet the applicable standards. And so I'd like to just very quickly go through some examples.

The first map that I've given to you, was the map that appeared on 60 minutes in January of 2000. Ironically, I didn't even know that they were interested in leaking tanks and one day they called me about cleanup standards and I said, well that standard hasn't really been employed in New York but have you heard about this compound that's impacted Long Island groundwaters? And this is the map that appeared on 60 minutes in that episode and you'll see that not only are there spills all over Nassau and Suffolk but more importantly, there are a hundred twenty six public water supply wells that actually have had MTBE contamination. So we know the public water supply wells are impacted. This doesn't even include the

thousands of individual private wells that are impacted.

Since that time, the scope of the problem has only grown bigger, if you go to the next map. This is a map that I just recently generated within the last month or so and what I did was, I overlaid gasoline spills that don't need cleanup standards with reported MTBE spills, with reported Suffolk County Water Authority Wells with MTBE contamination and then all of the Suffolk County Water Authority Wells. The key thing to notice is that there are many gasoline spills in Suffolk County that have not been designated MTBE problems. Even though MTBE is in all of the gasoline sold in Suffolk County, many of the gasoline spills that have been reported, have not been thoroughly investigated. They have not been designated MTBE problems and as a result, they are not a priority for the Department of Environmental Conservation. You'll also see that many of these gasoline spills are extremely close to existing water supply wells and many of those wells have not yet shown up with contamination because in many cases, the MTBE is migrating slowly into the well. It hasn't gotten there yet but it will.

The next map is just a more detailed version of Suffolk County and if you look around, you'll just see how many of these existing wells have MTBE and gasoline spills very close at hand. I wanted to just very quickly go through two examples to give you a sense of how problems that are obviously, very extreme, simply don't get the proper attention that they deserve. The first one, I wanted to talk to you about was 1689 North Ocean Avenue in Holtsville. If you turn to the first map. This is a standard Toxics Targeting map and you'll see that the little circle indicates an MTBE spill at that location and then you'll notice that there are stars indicating spills all the way down the street to the south. If you turn to the next page, you see this is an absolutely classic situation. This is an Amoco Station that had a leak, look on the left-hand side; the spill date was February 5, 1991. You'll see that over here where it says meets cleanup standards. It still doesn't meet cleanup standards. Essentially, ten years down the line and then in the upper right hand corner, you see there's no close date. So essentially, the authorities have been aware of this problem for ten years but they haven't cleaned it up. And you see, in under the DEC investigator remarks, the Department of Environmental Conservation, this station identified is potential source of numerous historical contaminated wells to the south.

If you turn to the next page, you'll see that there is data that shows that this spill, look on the bottom, the New York State DEC Fall 1998, MTBE survey. This is dated that the Department of Environmental Conservation didn't even release for more than a year and a half until I obtained it. And you see that this site had sixty seven hundred parts per billion of MTBE and the current groundwater remediation guideline is ten. Next page, I just included some of the individuals who are living in this area, Brian Mighella. They are literally are drinking water from their wells, John Corcoran and one day, the contamination hits the well and essentially, the water is undrinkable. This is happening right now all over Suffolk County and it's going to continue to happen until these spills get the full attention of you and other authorities.

Very briefly, let's go to the next one. This is even more riveting, I believe. This is an actual Suffolk County Water Authority well field in Huntington, New York. Go to the first map, you'll see that the well field is in a very congested area, many, many toxic sites and spills. I draw your attention down to the intersection of Madison Street and the Main Avenue there where you see spill number five and you turn the page, this is a Sunoco Station again, reported December 2nd, 1991, under, Meets Cleanup Standards, still doesn't meet the cleanup standards. You see the cause of the spill is tank failure, no close date. So again, this is a spill, as you see, it's nine hundred nineteen feet away from the well field and yet ten years down the line, it still hasn't been cleaned up and if you turn two pages, the amount of MTBE identified in this spill, believe it or not, one hundred thousand parts per million. Again, the groundwater remediation guideline is ten.

Turn two more pages and you'll see this is a major well field. You see, I've mapped all the wells there and the interesting thing is that even farther away from the gas station was a dry cleaner that more than a decade ago contaminated some of these wells. So they took care of the dry cleaner but they didn't take care of the gas station leak. So this is simply an

example of the literally hundreds of gas stations that are out there leaking. They haven't been contained and I can tell you that drinking water districts are monitoring very carefully but they have no control over cleaning up the contamination at the source. And one day, the MTBE shows up, if a major well gets hit, it can be offline for two years. So this is what Toxics Targeting does. We compile the data and we are exclusively licensing our information, gathering protocol to Napoli, Kaiser & Bern. We have previously provided data services to other law firms including some of the firms that have done litigation on MTBE. But from now on, in New York, we will be providing our services exclusively to Napoli, Kaiser & Bern.

LEGISLATOR D'ANDRE:

It's kind of scary, let me tell you.

MR. HANG:

If I may? It is scary. The Suffolk County Legislature has been a leader, as you know, for decades on groundwater protection. You have a great resource but you have a very sensitive groundwater resource. And so, the thing that really shocked me was that these problems had been known about for so long but the authorities have simply not had the resources or the ability to take advantage of the very strong law that we have to clean up this problem. And I think that that's beginning to change.

LEGISLATOR D'ANDRE:

I hear you. Let me tell you. It takes a little moxy to do that.

MR. BERN:

Let me just give you an example of a site that we've been monitoring in Nassau County. In 1999, the site, they found seventy parts per billion in the groundwater. In, as of December 21st, it had gone -- January 30th of this year, it had gone from seventy parts per billion to eight hundred and forty parts per billion in the groundwater and that was groundwater that was heading towards a major water district supply well. That is not only happening in Nassau County obviously, it is happening and probably to a greater degree here in Suffolk County.

LEGISLATOR D'ANDRE:

Well, Mr. Chairman, it seems to me, you have a problem here with people pollution. We have too many people in a square mile. But other than that, I've seen the makeup of some of the gasoline stations that go into areas where they're not supposed to be legally. And what's required of them, with the warnings and everything else, is what should be the norm for every gas station. In other words, if there's a slight leak or something getting out of the tank, it immediately registers on a warning, on a bell or some kind of equipment that it registers on, so that's immediately noticed. Now, in a regular gas station that's not in this kind of an area, that is not the case. You can go on for years. The guys say, we don't make any money on gas and strictly -- because he's making his money on parts or repairs and he writes off the gas sales as not being profitable, when indeed, there is a measure of profit in that, if they were running properly and with warnings. But if there's a hole in that tank, done either purposely, or by the seller or whoever and I'm being very suspicious now and I don't mean to imply anybody is doing this but something has to be wrong.

Because we had a case right in Smithtown, where this fella always complained about not making money on gas and it was discovered he had a leak, done by whom? An angry supplier? I don't know. But with the right setup, as its done when you go into a special recharge area with warnings, that can't happen. You get immediate notification and you should see that markup version of a tank in that ground. It's really beautiful to see how the architects laid it out. And I'm afraid with our population density, we've got to get into, no matter what we do with this, maybe -- there's other maybes coming down the road. We've got to reinstitute our whole planning for gas stations and monitoring them as such. And I know its a tremendous chore and that's not counting the homes with the fuel tanks. It's just the gas tanks and gas stations and until that's done, we're going to be spinning our wheels here.

MR. BERN:

Part of that program is making sure that the tanks that were supposed to be changed are being changed and are being changed appropriately.

LEGISLATOR D'ANDRE:

Yes, but not just being changed. They have to have these warnings.

MR. BERN:

Well, they're supposed to let the State know within two hours of any spill. We are looking at an environmental holocaust, not only here, seventy five to a hundred million individual's water supply throughout this country, being threatened by MTBE and other pollutants and gasoline.

LEGISLATOR D'ANDRE:

Well, we're worried about the Russians and the Chinese. We've got our own water supply to deal with. Let me tell you, we're dying from within. We have people pollution, is what we have.

MR. O'DOHERTY:

You're absolutely right.

LEGISLATOR D'ANDRE:

And that's a shame. And with our knowledge, we can come up with the atom bomb but we can't come up with these kind of solutions? Something is wrong.

MR. BERN:

We're doing it much more insidiously.

CHAIRMAN ALDEN:

You're all set, Mike?

LEGISLATOR D'ANDRE:

Chairman, thank you.

CHAIRMAN ALDEN:

Okay. Just I have to put these questions on the record. Do you have any pending litigation involved in the County?

MR. BERN:

Not that I'm aware of.

CHAIRMAN ALDEN:

Is your firm or any family member of you, or a partner in your firm under contract with Suffolk County?

MR. BERN:

No.

CHAIRMAN ALDEN:

Okay. Do you have any personal relationships or any member of your firm have any personal relationships with any officer, official or employee of the County of Suffolk?

MR. BERN:

No.

CHAIRMAN ALDEN:

Okay and I think you mentioned that, as far as the contingency fee basis, that you are fully prepared to carry that litigation. Okay, you have a few minutes?

MR. BERN:

Oh, absolutely.

CHAIRMAN ALDEN:

Thanks. Okay, I have Michael White. Good morning.

MR. WHITE:

Good morning Mr. Chairman and members of the committee and Counsel Mr. Sabatino. My name is Michael White. I've from the firm of White & Kretzing. We're located in Westbury. I'm a resident of Suffolk County and a long time resident of Suffolk County. I'd like to take you over some information about myself and the firm, most of which I've supplied to the Chair and the Committee previously. My background is both in science and technology and the law. I have degrees in both marine and environmental science, earth science and environmental studies and marine environment science, as well, as my law degree. I've also held some key public positions, which I think are important to come into play and will bear on our qualifications with respect to assisting the County in addressing this problem.

Subsequent to my leaving Stony Brook University as a Research Scientist, I worked for the Suffolk County Department of Health Services including the Drinking Water Supply Division. I held the position of Commissioner of Environmental Control in the Town of Huntington. I also served as a board member of the Suffolk County Water Authority and that's particularly important because during the time that I was a board member of the Suffolk County Water Authority, the Water Authority brought on litigation against Rhoun Polenc and Union Carbide, with respect to the temic and aldercarb contamination, and particularly, in the east end wells and it was successful, as you recall. I was very much involved with that litigation as a board member. I've also served on the Long Island Regional Ashfill Board, the Suffolk County 208 Technical Advisory Committee and I am presently a member of the board of the New York State League of Conservation Boaters and a former Chair of the Suffolk County Bar Association Environmental Committee.

Prior to White and Kretzing, or prior to forming White and Kretzing, I worked with a couple of the island's larger law firms, one being Rivkin Radlar and another being Nixon Peabody. My partner in the practice of White and Kretzing, Laurel Kretzing is a former Assistant County Attorney from Nassau County and has been practicing law now for fifteen years. Clearly, we're a small firm and we're the obvious David against some of Goliaths that you've heard from today. But I'd like to think that our firm is not only capable, we pride ourselves in providing small firm attention and pricing and big firm results. Our practice is mainly in environmental and municipal law. We handle quite a bit of litigation with respect to petroleum spills, hazardous waste sites, State superfund sites and we also do other litigation, such as constitutional law and some commercial litigation as well. We're admitted to the relevant courts that would be involved in this action. I also serve as the Village Attorney for the Village of Northport. So both from my perspective and the firm's perspective, we're very familiar with the technical, the governmental and the legal issues that would be involved in this matter.

Like the others, I would like to applaud the Legislature for their concern on this issue. Clearly, the Legislature of Suffolk County has a long history in this regard. And without revealing my specific age, I've been there to see quite a bit of it, going back to the detergent ban, as well as the development of sewer districts in the County. And particularly, the role in groundwater protection and land preservation and again, going back to the farmland preservation program. So again, I applaud the Legislature and I think you're moving in the right direction to address this issue on behalf of your constituency and the residents of Suffolk County.

I think this, as you realize, is a very important environmental issue and a health issue, which is a combination of areas that we're seeing more commonly -- of common concern in the media and the news and the government today and with respect to people. They're concerned about illnesses and public health problems that arise from environmental issues and environmental contamination. I'm aware of the class action suits pending. I have no -- the firm, at this point, has no MTBE litigation presently in play. But I will tell you again, that we're prepared and capable of looking at this issue with respect to the County's rights and remedies. I think that the clear avenue of research needs to be what your possible rights and remedies are under the New York State Navigation Law. I would also suggest to you

that, I think, it's very important to perhaps, consider partnering with the Suffolk County Water Authority in this regard. Clearly, the Suffolk County Water Authority has a similar but more distinct stake in this and that it is the prime water purveyor for Suffolk County and can attack it both as well owners and it's particular rights of the groundwater. Not to say that the County doesn't have costs and rights as well. But I think that's the particular area that needs to be looked into.

I also recognize, having served with the County, on various boards and as an employee of the County, I realize very specifically -- and also some of the people I work with actually still work with the County Drinking Water and Suffolk County Health Department as well. There is a tremendous asset in the County personnel that you have and the information that the County has produced both the County Health Services and Suffolk County Water Authority.

Just a short comment on a couple of things that were said earlier, particularly focused and I think Mr. Hang is particularly qualified in this area with the information that he and his firm has developed. What strikes me, so glaring in that, is that why hasn't the New York State Department of Environmental Conservation forced to clean up those spills? And maybe that's a fruitful area or a fertile area that the County needs to look into. Why hasn't the DEC, who is mandated by statute to do what needs to be done, spent their money or found somebody to spend money to clean up those spills? I think that's a prime question. So it's important for the County to consider its rights and perhaps, recovering the costs that it has incurred or may incur but that's an area that, I think, really demands attention.

LEGISLATOR D'ANDRE:

In answer to that Mr. Chairman, if you will? If they can't come up with a budget, how are they going to clean up toxic waste or contaminated water? It's a dismal record they have up there. It's shameful. Let me tell you, going back to Coumo to today, those people need a lot of explaining to the public to do. If we're going to clean up this toxic waste or this poison, we need good leadership, both parties, not prancing up and down to see what they can gain for their district. This is a people problem and it needs a people solution of both parties, including liberals thrown in and until that's done, we're spinning our wheels here, unfortunately. Because it takes the real big bucks of the State to solve this problem and real leadership and they have it but they're not using it. It's unfortunate.

Both Sheldon and the Governor have a very poor performance here and I don't know who's to blame but they're in office and I have to hold them responsible. I'm just, as a citizen, I'm just shocked at that performance. I think we deserve better and we're not getting it. And I know you're a fighter. I know you've been on the team fighting for our welfare but you're a lone ranger. What can you do? You need help from the masses up in Albany. Combined together, Democrats and Republicans working together to cure this problem. They can't even come up with a budget, leave alone helping our people who are being poisoned. It's just -- because a bigger State in the union that we are, California just lost their lead with their dismal power failures. Now, we're doing it with our water and it's wrong, very, very wrong. Thank you for your indulgence.

MR. WHITE:

If I can just comment Mr. Chairman? I think that Legislator D'Andre makes an excellent point and the perfect example, as we sit here today, there's an enormous pressure being put on the State Legislature to reauthorize and fund and hopefully, renovate the State Superfund Program. That's a perfect example of their political paralysis that, I think, it's properly phrased and I --

LEGISLATOR D'ANDRE:

It's tough when you're saying it. But I'm using common language because they're common people up there that need to brush up and get sharp and take care of their people that they're governing.

MR. WHITE:

Fortunately though and I could maybe --

CHAIRMAN ALDEN:

I'm going to let Legislator Lindsay just jump in for a second?

MR. WHITE:

I'm sorry.

LEGISLATOR LINDSAY:

Maybe I missed it? How many attorneys in your firm?

MR. WHITE:

We have two attorney. We share an associate with another firm. We have a paralegal and two support staff.

LEGISLATOR LINDSAY:

Okay, so there's three attorney altogether besides the support staff?

MR. WHITE:

Correct.

LEGISLATOR LINDSAY:

Thank you.

MR. WHITE:

I just wanted to add Mr. Chairman, the one bright star or bright light perhaps, in this case is as mentioned earlier by some of the other people, as I mentioned the State Navigation Law. Unlike the State superfund, my understanding that that fund is clearly in the black. There is money there to be spent. Whatever the reasons, it doesn't get spent and that's part of the same problem. But in terms of the pot, at least, that appears to be available. It's getting it to move. So I thank you for your attention and I hope you will consider myself and my firm to serve the County.

CHAIRMAN ALDEN:

Thanks. Legislator Crecca, you had a --

LEGISLATOR CRECCA:

No.

CHAIRMAN ALDEN:

Oh, okay. Just to put on the record. Do you have any pending litigation involved in the County?

MR. WHITE:

No, we don't. I would just add though, as the Village Attorney for the Village of Northport, I expect that there may be some issues between the County Health Department or Agencies in the Village. Those are matters that come in the ordinary course. There's no litigation pending. But I know there's compliance in those sorts of issues involved.

CHAIRMAN ALDEN:

Good. Thank you. Okay, is your firm or any family member or partner in your firm under contract with Suffolk County?

MR. WHITE:

One attorney that we have had to do some work with us as an of -- Counsel, independent contractor basis. Is an employee of the County. In fact, he's an employee of the Legislature. He works for Jon Cooper. His name is Gerard McCreight. He's not presently doing work on any cases the firm is handling. He has in the past. He certainly would not be involved in this matter, should the firm be successful.

CHAIRMAN ALDEN:

Okay. Do you or any member of your firm have a personal relationship with any officer, official, or employee of the County of Suffolk that would create a potential conflict of interest?

MR. WHITE:

No. Other than, as I said, the disclosure of Mr. McCreight's relationship to the firm as an of -- Counsel, independent contractor from time to time.

CHAIRMAN ALDEN:

Okay. Also, would you contemplate performing this on a contingency fee?

MR. WHITE:

Unfortunatley, there's no way we could do that, however, we certainly are very used to working on what we call municipal rates. I mean, we do work as an example right now, for the County of Nassau at a hundred and twenty seven fifty. We do work for the Village of Northport at a hundred and twenty five dollars on an hourly basis and I think those are very fair and reasonable rates for a municipality.

CHAIRMAN ALDEN:

Good. Do you have the ability to stay around for a couple minutes?

MR. WHITE:

Yes, I do.

CHAIRMAN ALDEN:

Thank you.

MR. WHITE:

Thank you very much for your attention and your time.

CHAIRMAN ALDEN:

At this time, I think, we can go through the agenda fairly quickly and then we can go into Executive Session. So I'm going to go to -- okay, we have tabled resolutions 1358. I'm going to make a motion to table that, seconded by Legislator Crecca. All those in favor? Opposed? That's tabled.

TABLED RESOLUTIONS:

I.R. NO. 1358-01 (P) Adopting Local Law No. 2001, A Local Law to ban discriminatory zone pricing of gasoline in Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Cameron Alden)

VOTE: 4-0-0-1

CHAIRMAN ALDEN:

We have 1443 and that's to establish RFP Policy for securing grants for the Office of Consumer Affairs.

LEGISLATOR CRECCA:

Motion to approve for the purposes of defeat.

CHAIRMAN ALDEN:

Okay, is there a second? Hearing no second, it fails. So the -- it's gone.

I.R. NO. 1443-01 (P) To establish RFP Policy for securing grants for Office of Consumer Affairs. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Ginny Fields)

VOTE: FAILS FOR LACK OF SECOND

CHAIRMAN ALDEN:

Introductory resolutions 1490. A Local Law to establish healthy bottled water labeling law. I'm going to make a motion to table that. We're still working on that, seconded by Legislator D'Andre. All those in favor? Opposed? That's tabled.

INTRODUCTORY RESOLUTIONS:

I.R. NO. 1490-01 A Local Law to establish health bottled water labeling law. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS AND HALTH (Legislator Cameron Alden)

VOTE: 4-0-0-1 TABLED

CHAIRMAN ALDEN:

1503 directing the County Comptroller to conduct an audit of Long Island Convention and Visitor's Bureau. I've done that by letter but Legislator Foley wanted to put in a resolution. I'm going to make a motion to approve. Do I hear a second? Hearing no second. That fails for lack of a second.

I.R. NO. 1503-01 Directing the County Comptroller to conduct an audit of the Long Island Convention and Visitors Bureau. ASSIGNED TO ECONOMIC DEVELOPMENT & ENERGY AND CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Brian Foley)

VOTE: FAILS FOR LACK OF A SECOND

CHAIRMAN ALDEN:

Okay 1506 establishing reporting requirement for the Long Island Convention and Visitors Bureau.

LEGISLATOR D'ANDRE:

Alden?

CHAIRMAN ALDEN:

That's mine.

LEGISLATOR D'ANDRE:

I vote we approve.

LEGISLATOR CRECCA:

Can I just take a look at that?

CHAIRMAN ALDEN:

Sure.

LEGISLATOR CRECCA:

Okay, I am sorry, you can --

CHAIRMAN ALDEN:

I have a motion by Legislator D'Andre and I have a second by myself and we're just going to wait a minute for Legislator Crecca.

LEGISLATOR CRECCA:

Explanation from Counsel?

MR. SABATINO:

The bill would require the Convention Bureau to issue a report on the 31st of every year to two committees: This committee or any successor to it and the Economic Development Committee and actually, the third committee would be Finance, with regard to the status of

its revenues and expenditures on a line item basis, so that there will be an annual reporting to, at least, these three legislative committees.

LEGISLATOR CRECCA:

Thank you.

CHAIRMAN ALDEN:

Any other questions? That's it? Okay, so we've got a motion and a second. All those in favor? Opposed? Abstentions? That passes.

I.R. NO. 1506-01 Establishing reporting requirement for the Long Island Convention and Visitors Bureau. ASSIGNED TO ECONOMIC DEVELOPMENT & ENERGY AND CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Cameron Alden)

VOTE: 4-0-0-1 APPROVED

CHAIRMAN ALDEN:

That's the end of our agenda and what I'm going to ask now is we're going to go into Executive Session but we're not going to do it in this room. So logistically they turn off the microphones and other things. Okay, for the purpose of discussion, legal strategies with the following Law Firms: Weitz & Luxenberg, Corleto & Associates, Napoli, Kaiser, Bern & Associates, White and Kretzing. We approve the presence of Counsel, Budget Review, if they want to come in and the Law Firms themselves. So there's a motion by myself, seconded by Legislator Crecca. All those in favor? Opposed? Okay, we're going into Executive Session. Thank you.

(Executive Session 11:20 a.m.)

CHAIRMAN ALDEN:

We are out of Executive Session. It is 12:45 P.M. Motion by Legislator D'Andred to adjourn, seconded by myself. We stand adjourned.

(The meeting was adjourned at 12:45 P.M.)

{ } Denotes spelled phonetically